APPEAL NO. 010058

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). On December 13, 2000, a hearing was held. The hearing officer decided that the respondent (claimant) was in the course and scope of his employment when he was involved in an auto accident on _____. The appellant (carrier) asserts that the hearing officer's decision is in error because the claimant was in violation of a company policy at the time of the accident and, as a result of the violation of company policy, had deviated from the course and scope of his employment. There is no response in the file from the claimant.

DECISION

The decision and order of the hearing officer are affirmed.

The facts of this case are undisputed. The claimant worked for (employer) as a security supervisor and, in the performance of his duties, was required to be at the (school) bus barn at 6:00 a.m. to verify that there were adequate security guards to fulfill the employer's contractual obligations with the school. However, rather than driving a company car to the bus barn, as he should have done in order to comply with company policy, the claimant drove from his home to the bus barn in his own car. The claimant verified that there were sufficient security guards, picked up the guards' time sheets, and was on his way to the main office when he was involved in the accident.

The carrier does not contend that the claimant was not furthering the business affairs of the employer at the time of the accident, but does contend that the claimant's violation of the company policy to only drive company cars to site locations was of a character to remove the claimant from the course and scope of his employment. The hearing officer disagreed and found that the claimant was furthering the business affairs of the employer at the time of his accident and had not deviated from the course and scope of his employment.

This case is, in many respects, similar to Texas Workers' Compensation Commission Appeal No. 982347, decided November 16, 1998, wherein the carrier argued that one of the employer's security guards had deviated from the course and scope of his employment. In Appeal No. 982347, we stated:

> An injury that occurs while an employee is furthering the affairs or business of his employer, through activity "of any kind or character," whether on the premises of the employer or at other locations, is an injury in the course and scope of employment. Section 401.011(12). An insurance carrier is liable for compensation for an injury arising out of the course and scope of employment "without regard to fault or negligence." Section 406.031(a). Violation of an employer's policy or instructions will not, as a general rule, remove a worker from the right to compensation where the rule relates to the

manner of doing work, as opposed to a rule intended to limit the scope of employment. Maryland Casualty Co. v. Brown, 115 S.W.2d 394 (Tex. 1938); Westchester Fire Insurance Co. v. Wendeborn, 559 S.W.2d 108 (Tex. Civ. App.-Eastland 1977, writ ref'd n.r.e.); Texas Workers' Compensation Commission Appeal No. 981236, decided July 22, 1998.

As stated in Larson's Workmen's Compensation, Law § 33.02 [5] (2000),

> The choice of a conveyance is a choice of method of accomplishing a result, and not a variation in the ultimate content of the claimant's tasks. If the claimant's task is to remove stones, but the claimant is forbidden to use a tractor, removing stones with a tractor is still removing stones and an injury from the tipping of the tractor is compensable . . . . The same is true of the forbidden delivering of groceries in a private car . . . and even the expressly prohibited use of a private plane to make a delivery.

The hearing officer did not err in determining that the claimant was in the course and scope of employment at the time of his accident. The claimant's violation of company policy by driving his own car to the school's bus barn was a violation of a policy regarding the method in which the claimant's employment was to be accomplished, not the scope of the employment, and was not a deviation from the course and scope of his employment.

We affirm the hearing officer's decision and order.

Kenneth A. Huchton
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Philip F. O'Neill
Appeals Judge